



## STAFF REPORT

DATE: JANUARY 30, 2012  
TO: AGENCY CHAIR AND BOARD MEMBERS  
FROM: ROD FOSTER, EXECUTIVE DIRECTOR  
BONNIE JOHNSON, MANAGEMENT SERVICES DIRECTOR  
PREPARED BY: DELMAR WILLIAMS, AGENCY COUNSEL  
DEAN DERLETH, AGENCY COUNSEL  
SUBJECT: ADOPTION OF RESOLUTION APPROVING AND ADOPTING AN  
AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE  
PURSUANT TO AB 1X 26

### RECOMMENDED ACTION

It is recommended that the Agency Board adopt Resolution No. 897 approving and adopting an amended "Enforceable Obligation Payment Schedule" pursuant to Assembly Bill 1X 26.

### GOAL STATEMENT

The proposed action will allow the Agency to continue to perform existing obligations until the Recognized Obligation Payment Schedule becomes effective.

### BACKGROUND

On June 28, 2011, as part of the 2011-2012 State of California budget bill, companion bills Assembly Bill 1X 26 ("AB 26") and Assembly Bill 1X 27 ("AB 27") were enacted, which would dissolve the Agency, unless the City adopts an ordinance to participate in the "Alternative Voluntary Redevelopment Program" established by AB 27 and pay an annual "community remittance" payment to the County of San Bernardino. On July 18, 2011, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 ("Legal Action"), challenging the constitutionality of AB 26 and AB 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement of AB 26 and AB 27, pending the Supreme Court's determination of the legality of AB 26 and AB 27. On August 11, 2011, the Supreme Court issued an order in the Legal Action granting a partial stay of AB 26, exclusive of Health and Safety Code Sections 34161 through 34167 (which suspend new redevelopment activity), and a complete stay of AB 27, such that the City and the Agency could not pursue new redevelopment activity under the Alternative Voluntary Redevelopment Program (collectively, "Stay"). On August 17, 2011, the Supreme Court modified the Stay such that the Stay no longer affected Health and Safety Code Sections 34167.5 through 34169.5, in addition to California Health and Safety Code Sections 34161 through 34167, or California Health and Safety Code Sections 34194(b)(2). On December 29, 2011, the Supreme Court issued its final decision in the

Legal Action, upholding AB 26, invalidating AB 27, extending all statutory deadlines under Health and Safety Code Sections 34170 through 34191, and essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012

## ISSUES/ANALYSIS

Health and Safety Code Sections 34161 through 34169.5 preclude redevelopment agencies from incurring new indebtedness, transferring assets, acquiring real property, entering into new contracts or modifying existing contracts, or adopting or amending redevelopment plans. Health and Safety Code Section 34169 requires redevelopment agencies to adopt an enforceable obligation payment schedule ("EOPS") providing the amount of payments obligated to be made, by month, for each enforceable obligation, through December, 2011.

The EOPS is required to list all of the "enforceable obligations" of the Agency, including the following: bonds; loans legally required to be repaid pursuant to a payment schedule with mandatory repayment terms; payments required by the federal government, preexisting obligations to the state or obligations imposed by state law; judgments, settlements or binding arbitration decisions that bind the agency; legally binding and enforceable agreements or contracts; and contracts or agreements necessary for the continued administration or operation of the agency, including agreements to purchase or rent office space, equipment and supplies.

The Agency adopted an EOPS on August 23, 2011 by Resolution No. 893.

A successor document to the EOPS, the Recognized Obligation Payment Schedule ("ROPS"), was intended to set forth the enforceable obligations of the Agency and be operative on January 1, 2012, after the expiration of the EOPS under Health and Safety Code Section 34177(l)(3). However, as a result of the Legal Action, the Supreme Court extended the deadline for adoption of the ROPS to May 1, 2012. Health and Safety Code Section 34177(a)(1), enacted by AB 1X 26, provides that, until an ROPS becomes operative, only payments required pursuant to the EOPS shall be made, even after the redevelopment agency is dissolved. Therefore, the Agency is amending the EOPS to cover the time period from January 1, 2012 through June 30, 2012.

Health and Safety Code section 34177(a)(1) also provides that after February 1, 2012, the following enforceable obligations, set forth in Health and Safety Code section 34171(d)(2), shall be excluded from payments made pursuant to the EOPS: any agreements, contracts or arrangements between the City and the Agency. However, Health and Safety Code section 34177(d)(2) provides an exception for the following agreements between the City and the Agency: (1) any written agreements between the City and the Agency entered into prior to December 31, 2010, solely for the purpose of securing or repaying indebtedness obligations to third parties; and (2) loan agreements entered into between the Agency and the City within two years of the date of creation of the Agency.

The attached Agency Resolution adopts an amended EOPS, setting forth the enforceable obligations and the amount of payments to be made for each of them, by month, through June,

2012. This EOPS shall be operative even after the Agency is dissolved on February 1, 2012, and the City, as successor agency to the Agency, shall continue to make payments in accordance with the amended EOPS, until the ROPS is operative.

Pursuant to Health and Safety Code Section 34169, the revised EOPS shall be transmitted to the County auditor-controller, the Controller, and the Department of Finance, and shall be posted on the City's website.

### **FISCAL IMPACTS**

No Agency funds are involved with the adoption of the amended Enforceable Obligation Payment Schedule. The amended Enforceable Obligation Payment Schedule simply lists existing Agency obligations.

### **ALTERNATIVES**

The Agency Board may wish to consider the following alternatives:

1. Provide alternative direction to staff.

### **ATTACHMENT**

- (1) Resolution No. 897

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1 a stay of enforcement of AB 1X 26 and AB 1X 27, pending the Supreme Court's determination of  
2 the legality of AB 1X 26 and AB 1X 27; and

3 **WHEREAS**, on August 11, 2011, the Supreme Court issued an order in the Legal Action  
4 granting a partial stay of AB 1X 26, exclusive of Health and Safety Code Sections 34161 through  
5 34169.5 (which suspend new redevelopment activity), and a complete stay of AB 1X 27, such  
6 that the City and the Agency cannot currently pursue new redevelopment activity under the  
7 Alternative Voluntary Redevelopment Program (collectively, "Stay"); and

8 **WHEREAS**, the Supreme Court modified the Stay on August 17, 2011, such that the  
9 Stay no longer affects Health and Safety Code Sections 34167.5 through 34169.5, in addition to  
10 California Health and Safety Code Sections 34161 through 34167, or California Health and  
11 Safety Code Sections 34194(b)(2); and

12 **WHEREAS**, the Stay no longer affected Health and Safety Code Section 34169 requiring  
13 the Agency, among other things, to adopt an Enforceable Obligation Payment Schedule ("EOPS")  
14 within 60 days after the effective date of AB 1X 26 (August 27, 2011); and

15 **WHEREAS**, the Stay also did not affect Health and Safety Code Section 34167(h)  
16 providing that 60 days after the effective date of AB 1X 26 (August 27, 2011) the Agency shall  
17 not pay any obligation not set forth in an adopted EOPS; and

18 **WHEREAS**, because the Agency would have been limited to only making payments on  
19 obligations listed in an adopted EOPS after August 27, 2011, the Agency adopted an EOPS by  
20 Resolution No. 893 on August 23, 2011; and

21 **WHEREAS**, on December 29, 2011, the Supreme Court issued its final decision in the  
22 Legal Action, upholding AB 1X 26, invalidating AB 1X 27, extending all statutory deadlines  
23 under Health and Safety Code Sections 34170 through 34191, and essentially dissolving all  
24 redevelopment agencies throughout the State effective February 1, 2012; and  
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1       **WHEREAS**, Health and Safety Code Section 34177(l)(3) provides that the successor  
2 agency to the Agency, after the Agency's dissolution, is to adopt a Recognized Obligation  
3 Payment Schedule ("ROPS") succeeding the EOPS prior to January 1, 2012; and

4       **WHEREAS**, the California Supreme Court, in the Legal Action, extended the deadline  
5 for adoption of the ROPS to May 1, 2012; and

6       **WHEREAS**, Health and Safety Code Section 34177(a)(1) requires that until a ROPS  
7 becomes operative, only payments required pursuant to an EOPS shall be made; and

8       **WHEREAS**, Health and Safety Code Section 34177(a)(1) also provides that, in  
9 accordance with Health and Safety Code section 34171(d)(2), any agreements, contracts or  
10 arrangements between the City and the Agency shall not constitute payable enforceable  
11 obligations after February 1, 2012; and

12       **WHEREAS**, if the EOPS provides any debts or obligations be paid by the Agency to the  
13 City pursuant to Health and Safety Code section 34177(a)(1), it may only be included as an  
14 enforceable obligation through the month of January, 2011; and

15       **WHEREAS**, the revised EOPS may only include debts or obligations be paid by the  
16 Agency to the City pursuant to Health and Safety Code section 34171(d)(2), after February 1,  
17 2012, if they are: (1) written agreements between the City and the Agency entered into prior to  
18 December 31, 2010, solely for the purpose of securing or repaying indebtedness obligations to  
19 third parties; or (2) loan agreements entered into between the Agency and the City within two  
20 years of the date of creation of the Agency; and

21       **WHEREAS**, because the previously adopted EOPS is operative only through December  
22 31, 2011, it must be revised to be operative from January 1, 2012 through June 30, 2012; and

23       **WHEREAS**, all other legal prerequisites to the adoption of this Resolution have  
24 occurred.

1           **NOW, THEREFORE, BE IT RESOLVED** by the Redevelopment Agency for the City  
2 of Colton, as follows:

3           **Section 1.    Recitals.**   The Recitals set forth above are true and correct and are  
4 incorporated into this Resolution by this reference.

5           **Section 2.    CEQA Compliance.**   The amendment of the EOPS through this  
6 Resolution does not commit the Agency to any action that may have a significant effect on the  
7 environment. As a result, such action does not constitute a project subject to the requirements of  
8 the California Environmental Quality Act. The Agency Secretary is authorized and directed to  
9 file a Notice of Exemption with the appropriate official of the County of San Bernardino,  
10 California, within five (5) days following the date of adoption of this Resolution.

11           **Section 3.   Approval of EOPS.**   The Agency hereby approves and adopts the  
12 amended Enforceable Obligation Payment Schedule, in substantially the form attached to this  
13 Resolution as Exhibit A, so that the Agency may continue to meet its enforceable obligations, all  
14 as required by Health and Safety Code section 34169. The Agency has been required to act  
15 quickly in preparing, approving and adopting the EOPS because of the timing of the Supreme  
16 Court's decision in the Legal Action. As a result, the Agency reserves the right to amend the  
17 EOPS in the future to make the EOPS more accurate.

18           **Section 4.   Posting; Transmittal to Appropriate Agencies.**   The Executive Director  
19 is hereby authorized and directed to post a copy of the EOPS on the City's website. The  
20 Executive Director is further authorized and directed to transmit notice, by mail or electronic  
21 means, to the San Bernardino County Auditor-Controller, the State Controller and the State  
22 Department of Finance, providing the website location of the posted EOPS and other information  
23 as required by AB 1X 26 regarding the Agency's adoption of the revised EOPS.  
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**Section 5. Effectiveness.** Agency approval of the EOPS pursuant to this Resolution shall not be effective for three (3) business days following the date of adoption of this Resolution, in accordance with Health and Safety Code Section 34169.

**APPROVED AND ADOPTED** this 30th day of January, 2012.

Sarah S. Zamora  
Chairperson  
Redevelopment Agency for the City of Colton

ATTEST:

Eileen Gomez, CMC  
Secretary  
Redevelopment Agency for the City of Colton



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I, Eileen Gomez, CMC, Secretary to the Redevelopment Agency for the City of Colton, do hereby certify that the foregoing Resolution of the Redevelopment Agency for the City of Colton approving and adopting an amended Enforceable Obligation Payment Schedule pursuant to AB 1X 26 was duly adopted by the Redevelopment Agency for the City of Colton at a regular meeting of the Redevelopment Agency for the City of Colton, held on the 30th day of January, 2011, by the following vote:

NOES:

**ABSENT:**

**ABSTAIN:**

Dated: \_\_\_\_\_

Eileen Gomez, CMC  
Secretary  
Redevelopment Agency for the City of Colton

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**EXHIBIT A**

**ENFORCEABLE OBLIGATION PAYMENT SCHEDULE**

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE (Amended)  
Per AB 26 - Section 34169 (\*)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month						
					Jan	Feb	Mar	Apr	May	June	Jan-Jun Total
1) 1998 Tax Allocation Bonds Series A & B	US Bank	Bond issue to fund capital projects	33,583,805.00	5,259,813.51		592,648.00				2,352,647.51	2,945,295.51
2) 1999 Tax Allocation Bonds	US Bank	Bond issue to fund capital projects	11,734,865.00	739,550.38			178,944.00			283,944.38	462,888.38
3) 2004 Tax Allocation Bonds	US Bank	Bond issue to fund housing projects	8,173,174.00	879,985.75		128,464.00				373,463.75	501,927.75
4) Reassessment District (RAD) 00-1	Union Bank	Bond issue to fund housing projects	276,700.00	68,487.50			15,957.50			25,957.50	41,915.00
5) CIEDB Loan Agreement	Bank	Loan for Project area	1,623,234.00	149,629.47						128,679.23	128,679.23
6) CIEDB Loan Agreement	Bank	Administration Fee	3,763.52	3,763.52						3,763.52	3,763.52
7) Price Company DDA	Price Company	Disposition & Development Agmt/Promissory Note	2,175,013.00	152,251.00						152,251.00	152,251.00
8) Employee Costs **	Employees of Agency	Salary and benefit costs for employees	891,630.00	891,630.00	66,891.03	80,091.92	80,091.91	80,091.91		152,251.00	467,350.61
9) Employee Costs **	PERS	PERS pension cost	80,626.00	80,626.00	6,718.83	6,718.83	6,718.84	6,718.84		6,718.84	40,313.02
10) Ranch Med HOA Fees	Rancho Medierania HOA	HOA fees	45,000.00	45,000.00	4,478.00	4,478.00	4,478.00	4,478.00		4,485.00	26,875.00
11) Rancho Med	Elite Management	Property management fees	30,000.00	30,000.00	2,500.00	2,500.00	2,500.00	2,500.00		5,000.00	17,500.00
12) Rancho Med	Alverada Pacific Insurance Services	Premiums	800.00	800.00						800.00	800.00
13) RDA DS Project areas	San Bernardino County	Fees deducted for Tax Increment Allocations	30,000.00	30,000.00	2,500.00	2,500.00	2,500.00	2,500.00		6,420.21	18,920.21
14) TABS Arbitrage Fees	Willigan Financial Services	Arbitrage calculations	5,000.00	5,000.00						1,250.00	1,250.00
15) TABS Continuing Disclosures	Hdl. Coren & Cone	Annual Continuing Disclosures & Diseminations	9,000.00	9,000.00	9,000.00						9,000.00
16) RAD 00-1	NBS	Reassessment District Assessment Calculation Fees	1,500.00	1,500.00	316.50		316.00				632.50
17) Property Tax Analysis	Hdl. Coren & Cone	Property tax analysis	7,000.00	7,000.00	4,000.00						4,000.00
18) TABS Administration Fees	US Bank	TABS Administration Fees	19,592.00	19,592.00			6,733.34				10,275.34
19) Reassessment District 00-1	Union Bank	Reassessment District Administration Fees	3,200.00	3,200.00		3,200.00					3,200.00
20) Storage Costs **	Correstone Records Management	Storage services	1,113.00	1,113.00	102.00	102.00	102.00	102.00		102.00	612.00
21) Professional Association **	California Redevelopment Association	Membership dues & legal assessments	6,700.00	6,700.00							0.00
22) Professional Association **	Int'l Council of Shopping Centers	Membership dues	200.00	200.00							100.00
23) Professional Association **	NAIOP	Annual membership	475.00	475.00							0.00
24) Contract for cellular phone **	Sprint	Cell phone services	590.79	590.79	53.72	53.72	53.72	53.72		53.72	322.32
25) Rancho Med	Larry Weaver	Legal services	5,000.00	5,000.00	545.00	545.00	545.00	545.00		539.82	3,264.82
26) RDA Audit **	Lance, Soil, Lunghard	RDA annual financial audit and report	22,000.00	22,000.00		9,749.00					9,749.00
27) Participation/Cooperation Agreement	East Valley Land Co.	Ownership Participation Agreement	1,914,696.00	239,337.00			45,000.00			90,000.00	135,000.00
28) Redevelopment Agency **	Urban Futures Inc. (UFI)	Financial advisory services	28,494.00	28,494.00						11,360.57	11,360.57
Totals - This Page			\$ 60,673,171.31	\$ 8,680,738.92	\$ 97,105.08	\$ 831,060.47	\$ 343,940.31	\$ 96,989.47	\$ 96,239.49	\$ 3,329,920.96	\$ 4,997,245.78
Totals - Page 2			\$ 5,975,865.00	\$ 5,975,864.33	\$ 1,684,175.67	\$ 36,333.47	\$ 33,933.47	\$ 34,696.47	\$ 33,933.47	\$ 4,012,888.88	\$ 5,835,931.43
Totals - Other Obligations			\$ 33,436,543.63	\$ 1,709,435.33	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,709,435.33	\$ 1,709,435.33
Grand total - All Pages			\$ 100,085,579.94	\$ 16,366,038.58	\$ 1,781,280.75	\$ 867,383.94	\$ 377,873.78	\$ 131,685.94	\$ 132,172.96	\$ 9,252,215.17	\$ 12,542,612.54

\* This Enforceable Obligation Payment Schedule (EOPS) is valid through January 1 through June 30, 2012. It is the basis for the Recognized Obligation Payment Schedule (ROPS) which must be prepared by the Successor Agency (City) by May 1, 2012.  
\*\* Subject to Administrative Cost Allowance in the amount of 5% of available property tax for 2011-12.



Name of Redevelopment Agency:

City of Colton

Project Area(s)

**All**

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## OTHER OBLIGATION PAYMENT SCHEDULE

**Per AB 26 - Section 34169 (\*)**

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month						
					Jan	Feb	Mar	Apr	May	June	Jan-Jun Total
1) Pass Through Agreements - Mt. Vernon DS**	SB Valley MWD	Pass throughs	6,589,769.77	231,032.00						231,032.00	
2) Pass Through Agreements - Mt. Vernon DS**	CJUSD	Pass throughs	1,324,527.33	62,646.00						62,646.00	
3) Pass Through Agreements - Santa Ana River DS**	SB Valley MWD	Pass throughs	10,673,111.64	526,200.61						526,200.61	
4) Pass Through Agreements - Santa Ana River DS**	SBVCD	Pass throughs	1,942,375.33	148,986.00						148,986.00	
5) Pass Through Agreements - Santa Ana River DS**	CJUSD	Pass throughs	236,212.65	17,223.00						17,223.00	
6) Pass Through Agreements - West Valley DS**	SB Valley MWD	Pass throughs	11,185,921.87	199,889.00						199,889.00	
7) Pass Through Agreements - West Valley DS**	RUSD	Pass throughs	1,058,245.78	96,080.00						96,080.00	
1) Statutory Payments	City of Colton	Pass throughs	119,807.00	119,806.46						119,806.46	119,806.46
2) Statutory Payments	SB Valley Muni Water Distr	Pass throughs	58,083.44	58,083.44						58,083.44	58,083.44
3) Statutory Payments	Colton Unified SD	Pass throughs	157,022.65	157,022.65						157,022.65	157,022.65
4) Statutory Payments	SB County Superintendent of Schools	Pass throughs	4,364.97	4,364.97						4,364.97	4,364.97
5) Statutory Payments	Inland Empire West Resource Conserv	Pass throughs	29.82	29.82						29.82	29.82
6) Statutory Payments	San Bernardino County	Pass throughs	56,424.80	56,424.80						56,424.80	56,424.80
7) Statutory Payments	West Valley Water District	Pass throughs	2,167.29	2,167.29						2,167.29	2,167.29
8) Statutory Payments	Riverside Corona Resource	Pass throughs	368.95	368.95						368.95	368.95
9) Statutory Payments	SB Community College	Pass throughs	29,110.34	29,110.34						29,110.34	29,110.34
Totals - Other Obligations			\$ 33,436,543.63	\$ 1,709,435.33	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,709,435.33	\$ 1,709,435.33

\* This Enforceable Obligation Payment Schedule (EOPS) is valid through January 1 through June 30, 2012. It is the basis for the Recognized Obligation Payment Schedule (ROPS)  
which must be prepared by the Successor Agency (City) by May 1, 2012.

\*\* Includes projected pass-through obligations through the life of the project areas.